

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRR No.4578 of 2016 (O&M)

Decided on : 27.09.2017

Mandeep Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Simranjeet Singh Sarwara, Advocate
for the petitioner.

Mr. Amitoj S. Dhaliwal, DAG, Punjab.

Mr. Gurpreet Singh Saini, Advocate for
Respondent No.2.

HARI PAL VERMA, J. (Oral)

Petitioner-Mandeep Singh son of Shri Ram Singh, resident of Village Desu Majra, Police Station Kharar, District SAS Nagar, Mohali has filed the present revision petition challenging the judgment dated 07.11.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, whereby his appeal against the judgment of conviction and order of sentence dated 26.04.2014 passed by learned Sub Divisional Judicial Magistrate, Kharar, was dismissed.

Power of attorney, filed on behalf of respondent No.2-complainant, in court today, is taken on record.

Briefly stated, FIR No.133 dated 17.04.2010 under Sections 279 and 304-A IPC was registered against the petitioner-accused at Police Station Kharar on the statement made by complainant-Gurdeep Singh to the effect that on 16.4.2010 he along with his father Avtar Singh had gone to Mohali on their respective vehicles. Avtar Singh was on Activa scooter bearing registration No.PB-27-B-6051 whereas he (complainant) was going in his car. At about 6/6.30 PM, a bullet motorcycle bearing registration no. PB-65-J-4515 came there which was being driven at a very high speed and in rash and negligent manner. The motorcycle strucked against the Activa driven by the father of complainant Avtar Singh, who fell down and received multiple injuries. Injured was firstly taken to Civil Hospital, Kharar from where he was referred to PGI, Chandigarh where he died.

On the basis of the aforesaid statement of the complainant-Gurdeep Singh, FIR was registered against the petitioner-accused and the investigation was conducted by the police. The vehicle was taken in police possession. The petitioner-accused was arrested and produced in the Court. Statements of witnesses were recorded and after completion of investigation, challan was filed in the Court.

The copy of challan, as envisaged under Section 207 Cr.P.C., was supplied to the petitioner-accused. Finding a *prima facie* case against the petitioner, he was charge-sheeted under Sections 279 and 304-A IPC, to which, he did not plead guilty and claimed trial.

After recording the evidence and hearing the parties, learned trial Court vide judgment dated 26.04.2014 convicted the petitioner for the

commission of offence punishable under Sections 279 and 304-A IPC and vide separate order of even date sentenced him as under:-

Under Section 279 IPC : To undergone rigorous imprisonment for six months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo RI for one month.

Under Section 304-A IPC : To undergone rigorous imprisonment for 2 years and to pay a fine of Rs.500/- and in default of payment of fine to further undergo RI for one month.

It was, however, ordered that all the sentences of imprisonment shall run concurrently.

Feeling aggrieved, the petitioner preferred an appeal against the said judgment and order of sentence before the Court of Session. However, vide judgment dated 07.11.2016 passed by learned Additional Sessions Judge, SAS Nagar, Mohali, the appeal of the petitioner was dismissed.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

At the outset, learned counsel for the petitioner has not challenged conviction of the petitioner and has confined his arguments *qua* the quantum of sentence only. He has contended that as against the awarded sentence for a maximum period of two years, the petitioner has already undergone more than 1 year and 1 month including remission. The petitioner is a first time offender and there is no other criminal case pending against him. He has been suffering the agony of criminal proceedings since 17.04.2010 i.e. the date when the FIR in question was registered against him.

Learned counsel has further submitted that the family of the victim has

already been compensated by the Motor Accident Claims Tribunal. Thus, he has prayed that the sentence of the petitioner may be reduced to the period already undergone by him.

Learned counsel for respondent No.2-complainant states that complainant has no objection in case the sentence of the petitioner is reduced to the period already undergone by him. However, he submits that complainant-Gurdeep Singh would be satisfied in case some amount of compensation is awarded to him.

On the other hand, learned State counsel has filed custody certificate of the petitioner, which is taken on record. He has not disputed the custody of the petitioner and the fact that there is no other case against him, but has opposed the plea of taking liberal view, as pleaded by learned counsel for the petitioner on the ground that the offence is against the society as well.

I have heard learned counsel for the parties.

Perusal of the impugned judgments passed by the Courts below shows that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 279 and 304-A IPC. The appellate Court has also rightly dismissed his appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioner has not assailed the judgments of conviction on merits and rather has restricted his arguments qua the quantum of sentence only. The conviction of the petitioner is, therefore, affirmed.

So far as the issue on quantum of sentence is concerned, Hon'ble the Apex Court in the case of **State of M.P. Versus Mehtaab 2015(1) RCR (Criminal) 1008** has held that when the accused was found guilty of causing death by negligence, the High Court was not justified in reducing sentence of imprisonment without awarding any compensation to the legal heirs of the deceased. As such, the Apex Court while modifying the order passed by the High Court has held that the order of the High Court can be upheld only with the modification that the accused will pay reasonable compensation to the heirs of the deceased. This judgment was also followed by this Court in Criminal Revision No.1761 of 2015 decided on December 07, 2015 titled as **Kashmir Singh Versus State of Punjab.**

Similarly, Hon'ble the Supreme Court in **State of Himachal Pradesh Versus Ram Pal 2015(2) RCR (Criminal) 127** has also considered the similar controversy and has observed as under: -

“13. It is evident from the facts and circumstances of the case that the respondent has not called in question his conviction. We have before us only challenge to the inadequacy of the sentence in the present appeal filed by the State. Moreover, in an appeal under Article 136 of the Constitution, this Court does not re-appreciate the evidence, in absence of perversity or patent legal error, merely because a different view was also possible. We are thus, not inclined to reopen the correctness of conviction of the respondent and proceed to consider the question of adequacy of the sentence. In our view, the sentence of mere fine of Rs.40,000/- imposed by the High Court is not adequate and proportionate to the offence. We have been informed that a sum of Rs.3,60,000/- has been awarded as compensation by the insurance company to the heirs of the deceased. We are also of

*the view that where the accused is unable to pay adequate compensation to the victim or his heir, the Court ought to have awarded compensation under Section 357A against the State from the funds available under the Victim Compensation Scheme framed under the said section. This Court has dealt with the issue in **Suresh vs. State of Haryana, 2015 (1) RCR (Criminal) 148, Manohar Singh vs. State of Rajasthan & Ors. 2015 (1) RCR (Criminal) 747 and State of M.P. vs. Mehtaab 2015 (1) RCR (Criminal) 1008.***

Having regard to totality of circumstances of the present case, we feel that ends of justice will be served if the accused is required to pay total compensation of Rs.1 lakh and the State to pay a sum of Rs.3 lakhs.

14. Accordingly, we modify the impugned order passed by the High Court and enhance the compensation to be paid by the respondent accused to Rs.1 lakh to be paid within four months failing which the sentence awarded by the Court of Session shall stand revived. In addition, we direct the State of Himachal Pradesh to pay interim compensation of Rs.3 lakhs. In case the respondent fails to pay any part of the compensation, that part of compensation will also be paid by the State so that the heirs of the victim get total sum of Rs. 4 lakhs towards compensation. The amount already paid may be adjusted.”

In the present case, admittedly, against the awarded sentence of two years, the petitioner has already undergone imprisonment for more than 1 year and 1 month including remission. He is a first time offender and there is no other case pending against him. He has been facing the agony of criminal proceedings since 17.04.2010 i.e. the date when the FIR in question was registered against him. Therefore, taking into account the protracted trial, antecedents of the petitioner coupled with the fact that he has already suffered

incarceration for a long period of time, as well as in the light of the judgments of Hon'ble Supreme Court in Mehtaab's case (*supra*) and Ram Pal's case (*supra*), this Court feels that the ends of justice would be met, if the sentence awarded to the petitioner is reduced to the period already undergone by him subject to payment of compensation to the legal heirs of the deceased, as envisaged under Section 357 Cr.P.C.

Therefore, sentence of petitioner Mandeep Singh is reduced to the period already undergone by him subject to deposit of Rs.50,000/- with the trial Court, which shall be paid by the trial Court to the legal heirs of the deceased-Avtar Singh.

The petitioner be released from custody, forthwith, if not required in any other case, subject to his depositing of Rs.50,000/- with the trial Court. The trial Court shall disburse the compensation to the legal heirs of deceased.

With aforesaid modification in the order of sentence, the present revision petition stands dismissed.

September 27, 2017
m. sharma

(**HARI PAL VERMA**)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No